

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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JOSEPH MERENDINO,

Plaintiff,

v.

**DECISION AND ORDER**  
06-CV-585S

CATHOLIC HEALTH SYSTEM,  
SISTERS OF CHARITY HOSPITAL,  
CONSTANCE BAUER, and  
MAURICE REID,

Defendants.

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1. On July 28, 2006, Plaintiff filed a Complaint against Defendants in New York State Supreme Court. (Exhibit A to Defendants' Notice of Removal, Docket No. 1, pp. 8-53).

2. On August 29, 2006, Defendants filed a Notice of Removal (Docket No. 1) seeking to remove the action to federal court. Defendants asserted that this Court had federal question jurisdiction over Plaintiff's "Family and Medical Leave Act" claims, and supplemental jurisdiction over Plaintiff's remaining state law claims. (Notice of Removal, ¶¶ 6-8).

3. On August 31, 2006, Defendants filed a Motion to Dismiss (Docket No. 2).

4. On September 11, 2006, Plaintiff filed a Motion to Remand his action to state court (Docket No. 4) wherein he made a "more definite statement" of his claims, and contended that this Court lacked subject matter jurisdiction. (Motion to Remand, pp. 1-5).

5. On October 6, 2006, Defendants filed a Memorandum of Law in Response to Plaintiff's Motion to Remand (Docket No. 11) wherein Defendants acknowledged that based on the concessions in Plaintiff's motion, there is no basis for federal jurisdiction, and

that the matter should be remanded to state court. (Defendants' Memorandum (Docket No. 11), p. 3).

6. Accordingly, this Court will grant as unopposed Plaintiff's Motion to Remand the action to state court (Docket No. 4).

IT HEREBY IS ORDERED, that Plaintiff's Motion to Remand to State Court (Docket No. 4) is GRANTED.

FURTHER, that Plaintiff's claims shall be remanded to state court.

FURTHER, that Defendants' Motion to Dismiss (Docket No. 2) is dismissed as moot.

FURTHER, that the Clerk of the Court shall take the steps necessary to close this case.

SO ORDERED.

Dated: June 11, 2007  
Buffalo, New York

/s/William M. Skretny  
WILLIAM M. SKRETNY  
United States District Judge